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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEILANI JIMENEZ, individually, and as
successor-in-interest for Decedent DENNIS
JIMENEZ; J.J., a minor, by and through his
guardian ad litem Leilani Jimenez; D.J., a
minor, by and through her guardian ad litem
Leilani Jimenez, and DENNIS JIMENEZ, Jr.
an individual,

Plaintiffs,

v.

COUNTY OF ALAMEDA, a municipal
corporation and DOES 1-50, individually,
inclusive;

Defendants.

Case No.: C 13-04620 CRB

FURTHER STIPULATION AND
~~(PROPOSED)~~ ORDER TO
CONTINUE DATE FOR HEARING
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT

STIPULATION

WHEREAS, Defendants in the above-entitled action filed a Motion for
Partial Summary Judgment in this action that was originally noticed to be heard
by the Court on August 14, 2015 at 10:00 a.m. (Docket #35)

1 WHEREAS, on August 3, 2015, the Court, pursuant to the stipulation of
2 the parties, continued the hearing on the motion and to September 18, 2015.
3 (Docket #45)

4 WHEREAS, on September 14, 2015, the Court, on its own motion,
5 continued the hearing on the motion to September 25, 2015 at 10:00 a.m.
6 (Docket #46 and 47)

7 WHEREAS, on stipulation of the parties, the hearing on the motion was
8 again continued to October 9, 2015. (Docket #53)

9 WHEREAS, on October 5, 2015, the Court denied defendants' motion
10 without prejudice in order to give plaintiffs' counsel an opportunity to take the
11 depositions of two inmate witnesses, whose testimony counsel felt is necessary
12 to permit him to oppose the defendants' motion. (Docket #54)

13 WHEREAS, on October 9, 2015, the Court set a new hearing date for
14 defendants' motion for partial summary judgment of January 15, 2016. (Docket
15 #57)

16 WHEREAS, the depositions of the two inmate witnesses were taken by
17 plaintiffs' counsel on October 16 and November 12, 2015.

18 WHEREAS, unless a party requests that the preparation of a transcript of a
19 deposition be expedited, it is common practice for court reporters prepare and
20 provide the transcript of a deposition to the attorneys within two (2) weeks of the
21 date of the deposition.

22 WHEREAS, to date, the court reporting firm contracted by the attorney for
23 the plaintiffs to report the depositions, Barbara J. Butler & Associates, has not
24 provided transcripts of either of the inmate witnesses to the parties.

25 WHEREAS, counsel for the defendants' assistant, and defense counsel
26 himself, tried to reach Barbara J. Butler & Associates to ascertain the status of
27

the deposition transcripts on November 23, 25 and 30, 2015, but they reached only a voicemail system and did not receive a call back. It is presently unknown when the parties will receive the transcripts.

WHEREAS, before refiling the motion for partial summary judgment, counsel for the defendants wishes to have an opportunity to review both transcripts and determine which portions of them need to be incorporated into the motion and rewrite the motion accordingly. At present it appears unlikely that he will have sufficient time to have the motion ready in time to be filed by December 9, 2015, the deadline for filing the motion.

WHEREFORE, counsel hereby stipulate and request that the date for hearing defendants' motion for partial summary judgment be reset to February 19, 2016 at 10:00 a.m., or to such later date that is convenient to the Court's calendar.

IT IS SO STIPULATED.

LAW OFFICES OF JOHN L. BURRIS

Dated: December 3, 2015

By: /s/ Ben Nisenbaum, Esq.

Ben Nisenbaum
Attorney for Plaintiffs

Dated: November 30, 2015

BOORNAZIAN, JENSEN & GARTHE

By: /s/ Gregory J. Rockwell, Esq.

Gregory J. Rockwell, Esq.
Attorneys for Defendants

~~(Proposed)~~ ORDER

PURSUANT TO THE FOREGOING STIPULATION, good cause shown, date for hearing the Defendants' Motion for Partial Summary Judgment is continued to February 19, 2016 at 10:00 a.m.

IT IS SO ORDERED.

Dated: 12/4/2015



Honorable Charles R. Breyer
UNITED STATES DISTRICT JUDGE